

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

**EMPLOYERS MUTUAL CASUALTY
COMPANY AND EMCASCO INSURANCE COMPANY**

PLAINTIFFS

VS.

CIVIL ACTION NO.: 3:05-CV-00272-TSL-JCS

**EVELYN K. GOERS, CHERYL GOERS,
and UNION PLANTERS NATIONAL BANK**

DEFENDANTS

ORDER

This case, and the related litigation (3:05cv544 and 3:06cv431), stem from allegations by Evelyn and Cheryl Goers that their residence was damaged by water, resulting in their exposure to toxic mold, for which they have made claims to their insurance carrier. The carrier filed an original action for a declaratory judgment in this court, while the Goerses brought a suit in state court, which was ultimately removed. The dispute was mediated before Richard Bennett in May of this year. At issue is whether the parties actually reached a settlement during that mediation.

Since the mediation, the Plaintiffs have obtained new counsel, and they now assert that no valid settlement was actually reached. Employers Mutual has filed a Motion to Enforce Settlement, which has been referred to the undersigned. The court originally scheduled a hearing on this Motion, as well as a Motion for Protective Order and a Motion to Strike, for August 18, 2006. A recent review of the docket, however, revealed that Employers Mutual had subpoenaed the mediator to bring his file to the hearing and to testify. In response, the mediator has filed a Motion for Protective Order.

The Motion asserts that Uniform Local Rule 83.7 prevents his being compelled to release information about the mediation in the absence of a court order. Having briefly reviewed the Local Rule, the court is of the opinion that the Motion raises serious issues that should be briefed by the parties and duly considered by the court. That cannot be done by the original hearing date. The court had originally contemplated moving this hearing to August 25, 2006; however, Employers Mutual also intends to call the Goerses' original attorney to testify, and he is unavailable on that date. Because testimony regarding the events that took place during the mediation is critical to the issues raised by Employers Mutual, the court is of the opinion that the hearing should be moved to a date when that evidence, as well as the undersigned, will be available. Unfortunately, the next such date does not occur until September 15, 2006.

IT IS, THEREFORE, ORDERED that the hearing set for August 18, 2006, is now moved to September 15, 2006. All subpoenas issued for witnesses or documents to be available on August 18, 2006, are hereby amended to September 15, 2006.

IT IS SO ORDERED, this the 16th day of August, 2006.

S/James C. Sumner
UNITED STATES MAGISTRATE JUDGE